

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

DANIEL JOSE GOMEZ,  Plaintiff,  vs.  OFFICER JUSTIN REITER, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY; OFFICER ARRON BOBIER, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY,  Defendants.	4:21-CV-04179-RAL  ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL
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Plaintiff Daniel Jose Gomez, an inmate at the Minnehaha County Jail at the start of this case, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Doc. 1. This Court granted Gomez leave to proceed in forma pauperis. Doc. 8. Summary judgment was entered against Gomez, and he filed a notice of appeal. Docs. 107, 108. Now, Gomez moves for leave to proceed in forma pauperis on appeal and has provided a financial affidavit. Doc. 109.

“[I]n forma pauperis status does not require a litigant to demonstrate absolute destitution.” Lee v. McDonald’s Corp., 231 F.3d 456, 459 (8th Cir. 2000). But in forma pauperis status is a privilege, not a right. Williams v. McKenzie, 834 F.2d 152, 154 (8th Cir. 1987) (citation omitted). Under Federal Rule of Appellate Procedure 24(a)(3), “[a] party who was permitted to proceed in forma pauperis in the district-court action . . . may proceed on appeal in forma pauperis without further authorization” unless the appeal is not taken in good faith, the court “finds that the party is not otherwise entitled to proceed in forma pauperis[.]” or a statute provides otherwise.

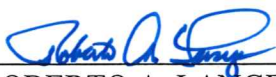
It appears that Gomez's appeal is taken in good faith. After review of his affidavit, this Court finds that Gomez has insufficient funds to pay the \$505 filing fee.

Accordingly, it is

ORDERED that Gomez's motion for leave to proceed in forma pauperis on appeal, Doc. 109, is granted.

DATED May 8<sup>th</sup>, 2023.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Roberto A. Lange", is written over a horizontal line.

ROBERTO A. LANGE  
CHIEF JUDGE